

THE FEDORENKO CASE

The Jewish community won a signal victory last week when the U.S. Supreme Court ruled against Feodor Fedorenko, Nazi concentration camp guard.

The Supreme Court ruling provided a firm new basis on which former participants in the Nazi horrors could be deported. And it gave a green light to the machinery which our government has now set up for this purpose. We just have to make sure that the machinery is not now dismantled.

No naturalized American citizen can be deported unless first stripped of citizenship. And the only way to revoke citizenship is to prove that it was obtained by significant fraud. Feodor Fedorenko was a Ukranian fighting against the Nazis as a Soviet soldier, when he was captured by the Nazis. He was trained as a concentration camp guard and assigned to Treblinka. As a displaced Ukranian, he entered this country in 1949 and became a citizen. He was a law-abiding, non-political factory worker in Connecticut. In 1977, the U.S. government sued to strip him of his citizenship.

The basis of the suit was that Fedorenko had hidden the fact that he had been a Treblinka guard when he applied for citizenship. But a lower court threw out the government's suit on three grounds: 1) as a captive of the Nazis, the defendant's service at Treblinka had been involuntary; 2) therefore, his misrepresentation had not been significant; 3) in any case, there were the "equitable and mitigating circumstances" that he had been a law-abiding citizen since his arrival.

But the Supreme Court ruled that the gravity of Fedorenko's war crimes did not have to be proved. It was enough that he had lied in his citizenship application. The lie was significant because the Displaced Persons Act under which Fedorenko applied

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for citizenship, specifically excluded anyone who had "assisted the enemy in persecuting civilians." As Justice Thurgood Marshall put it, "an individual's service as a concentration camp armed guard, whether voluntary or involuntary, made him ineligible for a visa."

Such a precedent has made life easier for the Office of Special Investigations^S of the Criminal Division of the U.S. Department of Justice. The organized Jewish community led a long fight to set up that office for the sole purpose of deporting former participants in the Nazi persecutions. The national Jewish agencies demanded such action from Congress and the White House; and the local JCRC did the same from Congressmen in Northern California.

That Office of Special Investigations now has a staff of over 50, including more than 20 lawyers, led by a chief who says that "my goal is to bring to trial every war criminal alive in this country." About 300 cases are under investigation, and 16 are currently in the courts. But the way was hard as long as the government had to burden to prove, by American court standards, the defendant's complicity in "significant European war crimes." Now, with this Supreme Court ruling, simple evidence of misrepresentation will be enough for revocation.

Moreover, such revocation will now be automatic, no matter how exemplary a life the defendant may have led since arrival in this country. That, too, had been a problem in trying to prosecute these cases -- and indeed it had been one reason for foot-dragging in setting up the Special Office. The argument ran: "If relatively minor actors in the Nazi persecutions have been behaving themselves, why not let sleeping dogs lie? Why pursue vengeance forever?"

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But it is not just vengeance which is involved. It is a principle of justice. It is a continuing statement of society's official abhorrence of any complicity in such acts of inhumanity as the Nazis perpetrated.

Now that the Supreme Court has made it legally easier to pursue justice towards this end, it would be too bad if the Office of Special Investigations were dismantled in some indiscriminating wave of new-broom economy. On behalf of this Jewish community, the JCRC has communicated with local Congressmen, Attorney General William French Smith and President Reagan -- Californians all -- urging them to strongly support the Office of Special Investigations, as an important expression of America's democratic beliefs. Letters from individual citizens would also be helpful.

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